

WILLIAM OWEN

Page 66

- 1 Q. Yes. The second paragraph under background. I'm
2 sorry, I should have identified it that way.
- 3 A. Yes.
- 4 Q. "The present facility is a concrete block structure
5 on slab with a flat membrane roof." And I just want
6 to get a sense of exactly what this existing building
7 was, or is. Was, at the time, I guess. And the
8 structure at that time was a concrete block
9 structure; is that correct?
- 10 A. Yes.
- 11 Q. Which means it's built with concrete blocks and
12 cement; is that accurate? I'm not a builder or an
13 architect.
- 14 A. Yes.
- 15 Q. Is there anything more elaborate to it than that?
- 16 A. Nothing much.
- 17 Q. There are doorways and windows?
- 18 A. Doorways and windows and a flat roof.
- 19 Q. Can you explain to me what on a slab means? There's
20 no basement; is that what that means? It's just on a
21 concrete slab?
- 22 A. That's correct.
- 23 Q. Can you explain to me what flat membrane roof means?
24 I have no idea what that means.

Page 67

- 1 A. Well, it's not a pitched roof. It's a flat roof as
2 the term states. A membrane is a roof built up of
3 composite materials such as, in layman's terms, tar
4 paper, tar, gravel; that's basically called a
5 membrane roof.
- 6 Q. What would that rest on? I mean, is there some
7 plywood under it or something?
- 8 A. It rests on corrugated metal, which is supported by
9 bar joists.
- 10 Q. What's a bar joist?
- 11 A. It's a structure member.
- 12 Q. Where are bar joists located within the structure?
- 13 A. Throughout.
- 14 Q. Throughout?
- 15 A. Throughout the structure.
- 16 Q. Are they part of a wall, typically?
- 17 A. No. They rest on walls.
- 18 Q. Do bar joists rest on walls?
- 19 A. Yes.
- 20 Q. Subparagraph 1 says, "The present facility consists
21 of: 1. Approximately 8,240 square feet of unheated
22 garage space?"
- 23 A. Yes.
- 24 Q. And that was accurate as of the time of this

Page 68

- 1 document?
- 2 A. Yes.
- 3 Q. Which was May 2001? That's correct?
- 4 A. Yes.
- 5 Q. And approximately 12,920 square feet of heated space?
- 6 A. Yes.
- 7 Q. Now, there's a Scope of Services and it identifies
8 five items under the Scope of Services. Do you see
9 that?
- 10 A. Yes.
- 11 Q. And then it says, "Preliminary plans for this project
12 were prepared in 1994 and may be used as a guide of
13 the Department's intent. These plans are attached
14 hereto as Exhibit A."
- 15 A. Appendix A.
- 16 Q. Excuse me. Appendix A, thank you. To your
17 knowledge, were those drawings the drawings that
18 Mr. Greenberg prepared?
- 19 A. Yes.
- 20 Q. And at any time prior to May 2001, did you ever
21 discuss with Mr. Greenberg that his plans would
22 be given to other architects for use on this
23 project?
- 24 A. No.

Page 69

- 1 Q. Do you recall if Appendix A included any plans that
2 were reproduced in color?
- 3 A. I can't recall. They may have. I can't recall. I
4 know there were color plans available. I don't know
5 if they were included or not.
- 6 Q. Would you have a copy of this document that has the
7 original attachments to it, so we might have an idea
8 of whether there was a color copy attached or one or
9 more color copies attached?
- 10 A. I have this document.
- 11 Q. What you would consider an original file copy; is
12 that an accurate --
- 13 A. I believe I would, yes.
- 14 Q. And that, you think, would answer the question of
15 whether there were color attachments?
- 16 A. Yes, it would.
- 17 Q. Have you seen that document recently?
- 18 A. I don't know what you mean by "recently."
- 19 Q. That's a fair answer. Have you seen it in the last
20 year?
- 21 A. Yes.
- 22 Q. Having seen it in the last year, do you have any
23 better recollection of whether there were color plans
24 attached, or not?

WILLIAM OWEN

Page 70

- 1 A. Not really.
- 2 Q. I have some questions about the language of this
- 3 document. The final paragraph says, "The designer
- 4 shall review the facility needs program previously
- 5 completed," do you see that?
- 6 A. Uh-huh. Yes.
- 7 MR. BARKER: Are you talking about page --
- 8 MR. RUSSELL: Page 2.
- 9 Q. Can you tell me what the language "facility needs
- 10 program" refers to?
- 11 A. It probably refers to some of the information I had
- 12 put together on equipment inventories, the number of
- 13 people there; that's what I would say.
- 14 Q. Then the next sentence says, "The designer shall
- 15 review the design with the building user for
- 16 compatibility with the final determined needs." Can
- 17 you tell me what the design refers to in that
- 18 sentence?
- 19 THE WITNESS: The designer, did you say?
- 20 MR. RUSSELL: No, the design. It says,
- 21 "The design."
- 22 THE WITNESS: Shall review the design?
- 23 MR. RUSSELL: The design.
- 24 A. Well, when whoever was going to be selected for this

Page 72

- 1 dollars, "X" millions, that is the time we would put
- 2 in the construction administration services; that's
- 3 usually the way projects are usually handled.
- 4 Q. And the designer would expect that the designer would
- 5 perform construction administration services?
- 6 A. That would be the intent, yes.
- 7 Q. The same designer?
- 8 A. The same designer.
- 9 Q. I don't have any more questions about this document
- 10 right now. I'm going to refer back to it in a
- 11 minute; so, if you want to keep it separate, it might
- 12 help.
- 13 (EXHIBIT 13 MARKED FOR IDENTIFICATION)
- 14 Q. Mr. Owen, Exhibit 13 is a photograph. Can you tell
- 15 me if you have an understanding of what's reflected
- 16 in that photograph?
- 17 A. (Witness perusing document) Well, it's the exterior
- 18 of one side of our facility; mainly, the mechanics
- 19 area and garage area to the back.
- 20 Q. And to the far right, does this depict, not well, but
- 21 to some extent, the concrete block structure of the
- 22 building?
- 23 A. Yes.
- 24 Q. That's really all I'm trying to get at. This would

Page 71

- 1 project, whatever design they would come up with,
- 2 they're to review it with myself and the people
- 3 housed at this facility.
- 4 Q. So, it must mean the designer's proposed design.
- 5 This is something that the selected designer was
- 6 going to prepare. That's what the word "design"
- 7 refers to?
- 8 A. The designer means whoever is going to be selected
- 9 for this project will review his design in its
- 10 working stage with the building user, meaning the
- 11 Department of Public Works.
- 12 Q. On page 3 there's kind of a bullet list of items and
- 13 then there's a sentence that says, "No construction
- 14 administrative services are to be included in this
- 15 proposal and will be considered at a later date."
- 16 A. Yes.
- 17 Q. Can you tell me what that language is intended to
- 18 convey?
- 19 A. It's to include services during the construction
- 20 phase of the project.
- 21 Q. Now, when it says, "considered at a later date," what
- 22 exactly did that mean?
- 23 A. Well, it means that when the Town goes for an
- 24 appropriation for the final project, "X" amount of

Page 73

- 1 carry all the way through, it just hasn't reproduced,
- 2 well, in a sense?
- 3 A. Yes.
- 4 Q. And it also reflects there's no picture above the
- 5 building. This would be consistent with the
- 6 description you gave earlier?
- 7 A. Right. Yes.
- 8 (EXHIBIT 14 MARKED FOR IDENTIFICATION)
- 9 Q. Mr. Owen, the court reporter has marked as Exhibit 14
- 10 a document entitled, "Town of Stoughton,
- 11 Massachusetts, Request for Proposals, Architectural
- 12 Design," and I'd like to ask you if that looks
- 13 familiar to you?
- 14 A. (Witness perusing document) I believe it does.
- 15 Q. And how does that look familiar to you?
- 16 A. It's probably one of the communities that responded
- 17 to my request to give me some information on their
- 18 format for proposals.
- 19 Q. Do you recall whether you relied heavily on any one
- 20 of those documents than any other?
- 21 A. No, I don't recall.
- 22 Q. This looks familiar to you, however, this document?
- 23 A. Yes.
- 24 Q. I'd like to direct your attention to the third page

WILLIAM OWEN

Page 74

1 under paragraph 6, Scope of Services.
 2 A. Uh-huh.
 3 Q. There's language that says, "Review the facility
 4 needs program previously completed and obtain a
 5 working knowledge of the facility needs of the Police
 6 Department."
 7 A. Uh-huh.
 8 Q. Did you borrow language from exhibit -- excuse me,
 9 borrow language from Exhibit Number 14 for use in
 10 Exhibit Number 12?
 11 A. Possibly.
 12 Q. It would be on what's numbered page 2, it would be
 13 the last full paragraph above the first bullet. It's
 14 numbered 2 on the bottom?
 15 A. The language is similar, but presented in a different
 16 format.
 17 Q. You think it's from this document that's been marked
 18 Exhibit 14?
 19 A. I don't recall if it's from this one or others, or
 20 something that I developed on my own.
 21 Q. Some of the language -- you'll agree with me that
 22 some of the language is almost identical?
 23 A. Some of the language is close. I won't say
 24 identical.

Page 76

1 Associates." Response Number 3, "GF-00254-257." So,
 2 that's why those are here. I will represent to you
 3 that this set is the same as this set for purposes of
 4 this deposition. I'd like to mark this set as an
 5 exhibit, but you can refer to whatever you'd like to
 6 refer to in answering a couple of questions that I
 7 would have about the plans. Is that fair?
 8 A. Okay.
 9 Q. I'm just going to take this back and give this to the
 10 court reporter so she can mark them. We'll mark
 11 these 15-A, B, C, and D.
 12 (EXHIBIT 15-A, 15-B, 15-C, AND 15-D MARKED
 13 FOR IDENTIFICATION)
 14 (LUNCH BREAK FROM 12:45 TO 1:15 P.M.)
 15 Q. Mr. Owen, we've marked four of the plans, the plans
 16 numbered 1, 2, 3, and 4 as Exhibits 15-A, 15-B, 15-C,
 17 and 15-D and I have a couple of questions about those
 18 plans. My first question is, do those appear to be
 19 the plans that were attached to Exhibit Number 12?
 20 A. Yes.
 21 Q. And Exhibit Number 12 is the Request for
 22 Qualifications for Architectural Design Services from
 23 May 2001?
 24 A. Yes.

Page 75

1 Q. That's all I have about that. Mr. Owen, I have some
 2 plans that I'd like to show you and I'll explain to
 3 you what I have. I have a set of four drawings
 4 numbered 1, 2, 3, and 4. They're on paper that is 11
 5 by 17 and each of them contains a Noah Greenberg
 6 Associates Architects block, title block. What I
 7 also have is a color version of Drawing Number 4, and
 8 then I have, what I will represent to you are, the
 9 same four black and white documents. The only reason
 10 I presented these is because these have GF numbers on
 11 them, which in your Answers to Interrogatories, you
 12 indicated were the documents that were attached to
 13 Exhibit Number 12. Are you with me so far?
 14 A. GF is for Gannett Fleming.
 15 Q. Your Answers to Interrogatories, which are in there
 16 somewhere, Number 3, it says, "Describe fully all
 17 attachments to the May 30, 2001 Request for
 18 Qualifications for Architectural Design Services to
 19 which reference is made in paragraph 2 of Affidavit
 20 of William B. Owen attached to the Defendant Town of
 21 Falmouth's Motion for Summary Judgment on Plaintiff's
 22 Claims. Identify specifically any attachments
 23 prepared by the plaintiff and/or reflecting the
 24 plaintiff's name or the name Noah Greenberg

Page 77

1 Q. I'd like to ask you about Drawing Number 4, which is
 2 this one, the color one. I just ask you, if looking
 3 at that, whether you can tell what the construction
 4 materials are of the facade of the proposed
 5 building?
 6 A. It appears to be brick.
 7 Q. Can you tell what the roof materials are?
 8 A. Metal, green metal.
 9 Q. And there's an area here. There's a middle drawing,
 10 and in the middle of the middle drawing there are
 11 three bays and the middle bay of the three bays is
 12 drawn as open with apparently a car, an automobile
 13 in the bay. Do you see that area that I'm pointing
 14 to?
 15 A. Yes.
 16 Q. And I've described it fairly accurately, have I not?
 17 A. Yes.
 18 Q. Would this be the same area that is reflected on the
 19 photograph that's been marked as Exhibit Number 13?
 20 MR. BARKER: Objection.
 21 A. Approximately. I'd say approximately. The
 22 photograph depicts these two doors here. The one
 23 that's open and the one to the left.
 24 Q. There's not three doors in the photograph?

WILLIAM OWEN

Page 78

- 1 A. This -- these doors are the proposed addition by
2 Noah Greenberg.
3 Q. The photograph only has two bays in it?
4 A. No, there's another door here.
5 Q. So, this is not a bay right here?
6 A. That's a bay. This is a bay.
7 Q. What's this over here?
8 A. That's the existing parking garage.
9 Q. Is that a doorway to the parking garage?
10 A. Yes.
11 Q. And that's the smaller open area to the far left of
12 the building that's reflected here?
13 A. Yes.
14 Q. You've identified that to the left of this area on
15 Mr. Greenberg's plan his proposed addition; is that
16 accurate?
17 A. Yes.
18 Q. And on the bottom of this proposed addition there's
19 an area that's not red, but it's white. Do you see
20 that?
21 A. Yes.
22 Q. Do you have an understanding of what that reflects?
23 A. Most likely it's concrete, poured concrete.
24 Q. And that would be the white area that we're talking

Page 80

- 1 A. I liked it.
2 Q. On Drawing Number 1 that's been marked as Exhibit
3 15-A, do you recognize an area to the left that's
4 indicated with hatch marks, to the far left that's
5 indicated with hatch marks that appears to be a
6 drive-through garage area?
7 A. Yes.
8 Q. By looking at the plan, can you tell the square
9 footage of that garage area?
10 A. Not offhand.
11 Q. There's a number. If you can read it, if that helps
12 you. The dimensions are there. I have a calculator
13 if you want to calculate it based on the dimensions.
14 A. It looks like 25,000 plus square feet --
15 Q. I have a calculator.
16 A. -- for the main garage.
17 MR. SKRIP: I object just to the extent
18 these aren't his plans. These are your client's
19 plan.
20 MR. RUSSELL: I understand.
21 Q. Do you have an ability to interpret these plans given
22 your education and your experience?
23 MR. BARKER: Objection.
24 A. Well, the dimensions are 170 on one and about 158 on

Page 79

- 1 about?
2 A. Right.
3 Q. Now, when Mr. Greenberg was preparing this design,
4 was he instructed that the facade should be made
5 brick?
6 A. I don't recall whether he was instructed or not.
7 Q. Was he instructed that the roof should be metal?
8 A. Yes.
9 Q. Was he instructed that the additions should be
10 constructed with a poured concrete footing?
11 A. No.
12 Q. That's not a footing. What would you characterize
13 that as, a short wall?
14 A. Yeah.
15 Q. So, my question to express it correctly, was he
16 instructed that the addition should be constructed
17 with a short concrete wall?
18 A. No.
19 Q. Was there any particular reason why he was instructed
20 to use a metal roof?
21 A. That was my idea to use metal roof, color green.
22 Q. Even the color?
23 A. Yes.
24 Q. Why was that?

Page 81

- 1 the other.
2 Q. These both say 75?
3 A. It looks like 79 -- it could be, yeah, 75. I believe
4 you're right. So, the dimension of that garage area
5 would be 170 by 150.
6 Q. And there's a smaller garage area next to that?
7 A. There's a small addition to the existing garage area,
8 yes.
9 Q. Can you get an idea of what the square footage of
10 that is?
11 A. It's hard to read. It looks like it's 4,000 plus
12 square feet. 71 by 52 foot.
13 Q. It looks like 3,700 to me. Can we do the math?
14 3,692, 3,700?
15 A. 3,692 square feet.
16 Q. And the other one, the 170 by 150 comes out to 2,500,
17 can we agree on that, 2,505?
18 A. Yes.
19 Q. You agree with me on that?
20 A. Yes.
21 Q. And that's what's reflected on the plan?
22 A. Pardon me?
23 Q. And that is what is reflected on that plan, Number 1?
24 A. Yes.

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WILLIAM OWEN

Page 82

1 MR. SKRIP: I'll just note again my
 2 objection to asking Bill to interpret documents, and
 3 that objection will run through this entire line of
 4 questioning, but ask as much as you like.
 5 Q. When you received these plans -- you did receive them
 6 at some point?
 7 A. Right.
 8 Q. Were you capable -- let me ask you this: What were
 9 the dimensions of the plans that you received?
 10 A. The dimensions that are on here.
 11 Q. Of the paper that the plans were drawn on, what were
 12 the dimensions? What was the paper size? Was it
 13 bigger than that?
 14 A. No, I don't believe they were the same.
 15 Q. 11 by 17?
 16 A. Yes.
 17 Q. When you received those, did you consider that you
 18 were capable of figuring out some of the square
 19 footage areas that were reflected on the plans?
 20 A. Yes.
 21 Q. And you could do that a couple of ways, by looking at
 22 the square footage areas that are indicated on the
 23 plans; is that right?
 24 A. Yes.

Page 83

1 Q. And you could also confirm those numbers by actually
 2 performing the calculations?
 3 A. Yes.
 4 Q. That would be reflected by the dimensions that are
 5 indicated on the plans?
 6 A. Yes.
 7 Q. And to the right of the plan, there's a parking area
 8 and then there's another area with hatch marks?
 9 A. Yes.
 10 Q. Do you see those?
 11 A. Yes.
 12 Q. Do you see where it indicates, "new building 4,800
 13 square feet"?
 14 A. Yes.
 15 Q. Actually, now, I'd like to direct your attention to
 16 Drawing Number 2, which has been marked as Exhibit
 17 15-B, and this reflects the 4,800 square feet that we
 18 were just referring to. Would you agree with that?
 19 A. The 4,800 square feet, I believe, is included in part
 20 of the existing building, which are these two areas.
 21 Q. The plan marked Number 2 does reflect, however, the
 22 area on Plan Number 1 that is indicated with hatch
 23 marks and identified as consisting of 4,800 square
 24 feet; is that correct?

Page 84

1 A. Yes.
 2 Q. Do you see on Drawing 2 an indication -- this is
 3 harder to read -- existing structure, existing
 4 one-story building to be removed?
 5 A. Yes.
 6 Q. Do you see that there?
 7 A. Yes.
 8 (EXHIBIT 16 MARKED FOR IDENTIFICATION)
 9 Q. Mr. Owen, the court reporter has marked as Exhibit 16
 10 a letter on Noah Greenberg Associates Architects
 11 letterhead dated February 7, 2000 under the signature
 12 of Noah Greenberg and addressed to Mr. Bill Owen.
 13 I'd ask you to look at that and let me know if you're
 14 familiar with that?
 15 A. (Witness perusing document) Yes, I'm familiar with
 16 it.
 17 Q. How are you familiar with it?
 18 A. Well, he delivered to me these drawings marked
 19 Exhibits 15-A, B, C, and D.
 20 Q. And so, you received this letter with the drawings;
 21 is that accurate?
 22 A. Yes.
 23 Q. Did this letter to your recollection follow a
 24 conversation with Mr. Greenberg?

Page 85

1 A. Probably. I believe I did have a conversation with
 2 him, but I can't recall exactly when.
 3 Q. You can't recall exactly?
 4 A. What date.
 5 Q. Do you recall the substance of the conversation?
 6 A. Well, I think I requested what he delivered to me.
 7 Q. Do you recall why you would have requested that he
 8 deliver those plans to you?
 9 A. I can't recall why.
 10 Q. The second sentence of the letter says, "I hope these
 11 drawings, along with the color rendering that I just
 12 prepared, will be of help to you in your quest for
 13 funding for the project." Do you recall discussing
 14 funding with Mr. Greenberg?
 15 A. No, I don't recall discussing funding.
 16 Q. Did you intend to use the plans for the purpose of
 17 obtaining funding for the project?
 18 A. I believe I did with the Board of Selectmen.
 19 Q. Can you give me more detail on how you were going to
 20 use the plans and what your intent was?
 21 A. Well, the intent was to show the Board what our
 22 proposed addition would consist of and look like.
 23 Q. And for the most part, these were the same plans that
 24 had been presented to the Selectmen some years

DUNN & GOUDREAU

Page 86

1 before?
 2 A. That's correct.
 3 Q. Is it safe that the difference in the two sets of
 4 plans that were presented are probably the color
 5 drawings?
 6 A. Yes.
 7 Q. And if your intent was to use these drawings for
 8 funding and Mr. Greenberg wrote to you and said that
 9 I hope these drawings along with the color drawings
 10 are helpful in seeking funding, do you think you
 11 might have discussed with him that you were going to
 12 use the plans for funding?
 13 A. I don't recall discussing that with him.
 14 Q. The second paragraph says, "There is no charge for
 15 these drawings, but I expect to hear from you
 16 when the project is finally funded as we know it must
 17 be in the near future." Did you have an
 18 understanding of what Mr. Greenberg meant by that
 19 language?
 20 A. No, I do not.
 21 MR. BARKER: Objection.
 22 Q. Did you respond to this letter in any way?
 23 THE WITNESS: Did I respond to it?
 24 MR. RUSSELL: Yes.

Page 87

1 A. I don't recall if I did or not. I don't believe I
 2 did.
 3 Q. Did you think it had any meaning at all?
 4 A. Not really.
 5 (EXHIBIT 17 MARKED FOR IDENTIFICATION)
 6 Q. Mr. Owen, Exhibit 12, which is the Request for
 7 Qualifications, you don't have to look at it right
 8 now, but you're welcome to. On the third page it
 9 states, "There will be a pre-proposal meeting held on
 10 Tuesday, June 5, 2001 at 10:00 a.m." And my question
 11 is, do you remember if there actually was a
 12 pre-proposal meeting held on Tuesday, June 5, 2001?
 13 I apologize if I went into that question before you
 14 had the document in front of you.
 15 A. Yes. I'm sure there was a pre-proposal meeting
 16 held.
 17 Q. Do you know who was present representing the Town at
 18 this meeting?
 19 A. Well, it was myself, Ron Neilson, and John Lyons were
 20 highway supervisors.
 21 Q. Now, are you looking at any document in answering
 22 that question?
 23 A. Yes. I'm looking at a Gannett Fleming document.
 24 Q. And that document's been marked Exhibit 17?

Page 88

1 A. Yes.
 2 Q. Does that refresh your recollection of who was
 3 present representing the Town at that meeting?
 4 A. Myself, Ron Neilson, and John Lyons.
 5 Q. Did you remember that without looking at the
 6 document, or did the document --
 7 A. No. I don't recall who was present, or even the
 8 date, when the meeting was held, other than what I
 9 see in front of me.
 10 Q. Do you have any understanding of who created this
 11 document?
 12 A. No, I don't.
 13 Q. Have you seen it before?
 14 A. No, I don't believe I have.
 15 Q. But so far, you're comfortable in indicating that it
 16 helps you to recall who was present at a pre-proposal
 17 meeting that was identified on the Request for
 18 Qualifications that we've marked as Exhibit 12?
 19 A. Yes.
 20 Q. I don't know who prepared these, either, but I'm
 21 going to ask you some questions about what's on these
 22 notes and see if you can help me understand what
 23 might have taken place at this meeting. Was there
 24 one person in charge of the presentation on behalf of

Page 89

1 the Town?
 2 A. I can't recall. It might have been myself.
 3 Obviously, it was me because I called the meeting.
 4 Q. Were you the person most knowledgeable about the
 5 project and the Town's intents with respect to the
 6 project?
 7 A. I would say at the time, yes.
 8 Q. And on the first page, after identifying Mr. --
 9 is it Neilson? Is that what you said?
 10 A. Neilson.
 11 Q. Mr. Neilson and Mr. Lyons, there's an indication that
 12 says, "Preliminary plans were completed"?
 13 A. Yes.
 14 Q. Do you see that?
 15 A. Yes.
 16 Q. Do you remember providing information at this meeting
 17 that preliminary plans had been completed?
 18 A. We didn't -- I don't recall we provided preliminary
 19 plans at this meeting.
 20 Q. Do you recall discussing that preliminary plans had
 21 been completed?
 22 A. If the notes say so. I guess it was discussed, but I
 23 don't recall. I didn't take these notes.
 24 Q. I understand that. And I would prefer that you don't

WILLIAM OWEN

Page 90

1 adopt the notes if they're not consistent with your
 2 recollection. So, you don't recall whether you made
 3 the comment that preliminary plans were completed for
 4 the project?
 5 A. No, I don't.
 6 Q. On the second page there's a line, I'll point it out
 7 to you, it says, "Want to demolish low area in front,
 8 then build." Do you have a recollection of making a
 9 comment that the Town wanted to demolish some part of
 10 this existing structure?
 11 A. I don't recall making that comment, demolish. The
 12 Town's intent was to demolish that area referred to
 13 here, though.
 14 Q. What area is that? Is that the same area we
 15 discussed on one of the exhibits marked as 15?
 16 A. Yes.
 17 Q. And it's your recollection that that was the intent
 18 at the time?
 19 A. At the time, yes.
 20 Q. Do you know why the Town decided to demolish part of
 21 the structure?
 22 A. At that time this structure that is being referred to
 23 demolish, it had some very severe cracking in the
 24 exterior walls.

Page 92

1 Q. Can you describe a gable/hip-type roof?
 2 A. Well, it's a sloped roof. If you know what a hip
 3 roof is, it's a hip roof. It's a sloped roof that
 4 comes up from all three or four corners.
 5 Q. So, instead of kind of having two sides, it would
 6 have more than two sides; is that accurate?
 7 A. Yes.
 8 Q. You're sure?
 9 A. I think I am.
 10 Q. There's an item down at the bottom that says,
 11 "Estimated construction cost 2.3 million." Do you
 12 remember discussing the estimated construction cost
 13 at this meeting?
 14 A. I probably did discuss it, but I can't recall.
 15 Q. And if you discussed it, do you have an idea of where
 16 you would have obtained an estimated construction
 17 cost from?
 18 A. Well, the 2.3 million came from Greenberg's previous
 19 cost estimate, preliminary cost estimate.
 20 Q. After that it says, "New estimate is required." Do
 21 you remember making that type of comment or anybody
 22 representing the Town making that type of comment at
 23 this meeting?
 24 A. I don't recall making it, but with the difference in

Page 91

1 Q. And Mr. Greenberg's plan indicates that that part of
 2 the structure would be removed?
 3 A. Correct.
 4 Q. Was he instructed to include that in his plans?
 5 A. I believe he was.
 6 Q. Because earlier I asked you about the brick facade,
 7 and about the green metal roof, and about the poured
 8 concrete wall, and you indicated some of those he was
 9 instructed to do and some of those he wasn't. You
 10 think he was instructed to demolish the building --
 11 A. I believe he was.
 12 Q. -- as part of the plans, okay. Above that line that
 13 we were just referring to, it says, "Improve front
 14 facade with gable/hip-type roof." Do you recall at
 15 that meeting that somebody from the Town indicated
 16 that the Town desired that the facade be improved
 17 with a gable/hip-type roof?
 18 A. Yes.
 19 Q. You recall that?
 20 A. Yes.
 21 Q. What do you recall about that?
 22 A. Gable. I wanted to improve the exterior of the
 23 building as you view it from Gifford Street and take
 24 away the flat '60s look.

Page 93

1 time frame, it's obvious that the cost is going to go
 2 up.
 3 Q. Why is that?
 4 A. Increasing construction materials and labor.
 5 Q. On the next page, the first line says, "Would like
 6 'some' new ideas, but not too much different than
 7 current designs." Do you see that? It would be at
 8 the very top. And if yours have GF numbers on it, it
 9 would be GF 263.
 10 A. Okay, I see it.
 11 Q. Do you recall someone from the Town making a
 12 statement to that effect?
 13 A. I don't recall. I'm not saying it wasn't made,
 14 though, but we were looking for new ideas from other
 15 architects, too.
 16 Q. What about the rest of the line that says, "but not
 17 too much different than current designs." Did you
 18 want to also remain true to the current design?
 19 MR. BARKER: Objection.
 20 A. That was to basically keep the offices in the front
 21 and the parking in the rear, the concept.
 22 Q. And your earlier testimony was that was pretty much
 23 the way it had to be laid out on the site; is that
 24 correct?

WILLIAM OWEN

Page 94

- 1 A. That's correct.
 2 (EXHIBIT 18 MARKED FOR IDENTIFICATION)
 3 Q. Mr. Owen, the court reporter has marked the next
 4 document as Exhibit 18 and it is a letter on Noah
 5 Greenberg Associates Architects letterhead dated
 6 June 18, 2001 under the signature of Noah Greenberg
 7 and addressed to Mr. William B. Owen. I'd ask you to
 8 take a look at that and let me know if you're
 9 familiar with that?
 10 A. (Witness perusing document) Yes.
 11 Q. How are you familiar with this document?
 12 A. How am I familiar with it? Well, I received it from
 13 Mr. Greenberg.
 14 Q. What did you do with the letter, if anything, after
 15 you received it?
 16 A. I don't recall I did anything with it.
 17 Q. You didn't turn it over to any other Town personnel,
 18 to your recollection?
 19 A. No, because a copy went to the Town Manager's office.
 20 Q. Did you speak to Mr. Greenberg about this letter?
 21 A. I can't recall if I did or not.
 22 Q. Did you let anybody else know about the contents of
 23 this letter, including other architects that
 24 expressed an interest in working on this job?

Page 96

- 1 Q. Were you asked to comment on the letter?
 2 A. No, I did not.
 3 Q. As you look at the letter today, do you notice
 4 anything about the letter that might be inaccurate?
 5 THE WITNESS: That might be inaccurate?
 6 MR. RUSSELL: Yes, you're here representing
 7 the Town today.
 8 A. I don't see anything inaccurate in this letter.
 9 Q. After you received the carbon copy, did you comment
 10 to anybody on the letter?
 11 A. No, I did not.
 12 Q. Did you take any action at all in response to
 13 receiving the carbon copy?
 14 A. No, I did not.
 15 (EXHIBIT 20 MARKED FOR IDENTIFICATION)
 16 Q. Mr. Owen, marked as Deposition Exhibit 20 is a
 17 document on Department of Public Works letterhead
 18 dated January 11, 2002 under the signature of William
 19 B. Owen. I would ask you if you're familiar with
 20 that document?
 21 A. (Witness perusing document) Yes, I am.
 22 Q. How are you familiar with it?
 23 A. We had -- or, I should say, the Town short-listed
 24 architectural firms following our review of the

Page 95

- 1 A. No. It was not distributed to other architects.
 2 Q. Did you make other architects aware that
 3 Mr. Greenberg had expressed dissatisfaction that his
 4 plans had been attached to the Town's Request for
 5 Qualifications?
 6 A. No, I don't recall that I did.
 7 (EXHIBIT 19 MARKED FOR IDENTIFICATION)
 8 Q. Mr. Owen, I presented to you what's been marked as
 9 Exhibit Number 19, and this is a letter on the
 10 stationery of the Town of Falmouth under the
 11 signature of Heather Harper, Assistant Town Manager.
 12 Excuse me, Assistant Town Administrator. I would ask
 13 you if you're familiar with that document?
 14 A. (Witness perusing document) I have seen it.
 15 Q. And you're indicated under the notation cc, William
 16 B. Owen, Director of Public Works?
 17 A. Yes.
 18 Q. Do you believe you received a carbon copy of this
 19 letter?
 20 A. Yes.
 21 Q. Did you participate in drafting this letter?
 22 A. No, I did not.
 23 Q. Were you asked to approve the letter before?
 24 A. No, I did not.

Page 97

- 1 Request for Qualifications. I think we short-listed
 2 it to three firms, but I'm not positive, and at that
 3 point we asked each firm for a cost proposal.
 4 Q. The third paragraph says, "I apologize for the delay
 5 in getting this project started, but I feel we are
 6 now in a position to get it moving more rapidly."
 7 Was there some delay in proceeding with this project
 8 that was unanticipated?
 9 A. I think the delay was in getting the funding for
 10 design services.
 11 Q. What delay was encountered in obtaining funding for
 12 design services?
 13 A. Well, it has to go to a Town meeting.
 14 Q. Well, did you expect to have it by a certain date and
 15 it didn't happen that way?
 16 A. I can't recall exactly when we received the funding
 17 for design, but probably at the fall of 2001 Town
 18 meeting.
 19 Q. And the letter says, "I feel we are now in a position
 20 to get moving more rapidly." Other than having
 21 funding approved, was there any other reason why the
 22 project was in a position to proceed more rapidly?
 23 A. No, I don't recall.
 24 Q. I don't want to put words in your mouth. I mean, if